

PUBLIC HEARING--January 13, 1965

Appeal #8046 Julian W. McDowell, et al. appellant.

The Zoning Administrator District of Columbia, appellee.

On motion duly made, seconded and carried with Mr. Scrivener dissenting the following Order was entered on February 9, 1965:

ORDERED:

That the appeal for a variance from the FAR requirements of the C-3-A District to permit erection of office building with a 3.7 FAR at 4201 Conn. Ave. N.W., lots 802 and 803, square 2051, be granted.

As the result of an inspection of the property by the Board, and from the records and the evidence adduced at the hearing, the Board finds the following facts:

(1) This Board, in appeal #7971 dated December 1, 1964, was of the opinion that relief under Section 7203.1 of the Zoning Regulations was not in the public interest, was contrary to policy and would tend to create a dangerous precedent. Appellant in this appeal requested a reduction in automobile parking spaces by 25% for a proposed office building. The appeal was denied without prejudice against further consideration by way of variation on the grounds that appellant had failed to relate a measurable degree of hardship which could be translated reasonably into understandable terms of either increased building bulk or parking reduction.

(2) The Board in appeal #7971 directed appellant to provide it with a statement showing added cost imposed upon the property owner in providing the parking spaces for which appellant sought relief.

(3) The statement submitted by appellant shows a normal cost per parking space of \$2600.00, whereas the cost of providing additional parking spaces in the second cellar level was \$5,500.00 per space. This shows that to provide the additional 24 spaces involves a cost of \$69,600.00 which appellant contends would entitle him to an additional 8,355 square feet of building area which in turn requires an additional 14 parking spaces at a cost of \$40,060.00 which in turn entitles appellant to an additional 4,797 square feet of building area or a total additional square footage of 13,152 square feet or 0.7 FAR.

(4) A cost analysis prepared by appellant for the second sub-cellar indicates excavation 4000 cu. yds. of rock removal at \$12.00 per cubic yard, \$48,000; concrete work, \$78,000; mechanical and electrical; \$16,000; sprinkler \$8,000 and added elevator stop \$4,000 or a total construction cost to provide 24 additional parking spaces of \$154,000.00.

(5) From the above cost analysis the builder and architect have computed the added cost as follows: Rock removal cost \$44,000; all other costs other than rock removal \$21,900 and area of garage 10,800 square feet x 2.19, \$23,652. Appellant shows that normal garage cellar construction costs \$8 per square foot whereas this site is \$10.19 per square foot, or an added cost of \$2.19 per square foot.

(6) There was no objection to the granting of this appeal registered at the public hearing.

OPINION:

The provisions of Paragraph 8207.11 which is the variance clause of the Zoning Act of June 20, 1938, specifically enumerate exceptional narrowness, shallowness, shape and topography as bases for affirmative findings of exceptional and undue hardship. The paragraph also provides for relief due to other extraordinary or exceptional situations or conditions of the specific property. Here, sub-soil conditions determined by test borings indicate an exceptional and undue charge upon the land. We believe the facts as enumerated in the above findings are indicative of hardship as envisioned by the statute, and that the relief authorized hereunder can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan as embodied in the map and regulations.

Mr. Scrivener: I believe that the economic effect of such conditions as underground rock should be related to the total economics of the construction and operation of the building, and therefore I am not satisfied at all with the method of computation used in support of this appeal. I am also concerned with the affect of the Board's order in these increased FAR cases with respect to the cost of land.